



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

Site:	Cummins Eng
Break:	10.11
Other:	VI

CERTIFIED  
RETURN RECEIPT REQUESTED  
P 014 864 365

December 27, 2000

Steve H. Strete  
Facilities Director  
Cummins Engine Company, Inc.  
Charleston Management Services  
4500 Leeds Avenue  
Charleston, SC 29405-8521

Dear Sir:

Please find enclosed a Removal Administrative Order issued under authority of Section 311(c) of the Clean Water Act and in response to the results of analytical data provided by the U.S. Coast Guard Marine Safety Laboratory. This Order requires Cummins Engine Company, Inc. to take immediate actions to prevent a substantial threat of a discharge of oil emanating from your facility into the Ashley River.

Please read and sign the enclosed Order and return it to the address indicated within 5 days of receipt of the Order. Should you have any questions regarding the Order, please contact me at (404) 562-8755.

Your prompt compliance with the terms and conditions within the Order are appreciated.

Sincerely,

Roberta M. Runge  
OSC EPA

cc: LT James V. Mahney, Jr, Marine Safety Office, Charleston  
Paul Okerberg, EPA, Criminal Investigation Division



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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REMOVAL ADMINISTRATIVE ORDER  
UNDER SECTION 311(c) OF THE CLEAN WATER ACT  
REGION IV**

**IN THE MATTER OF CUMMINS ENGINE COMPANY, INC., CHARLESTON,  
CHARLESTON CO., S. CAROLINA**

**Docket Number: OPA-4-2001-02**

Proceedings under Section 311(c) of the Clean Water Act (CWA), 33 U.S.C.

§1321(c), as amended by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. §2701 et  
seq.

**I. JURISDICTION AND GENERAL PROVISIONS**

1. This Order is issued by the United States Environmental Protection Agency ("EPA") to Cummins Engine Company, Inc. This Order is issued pursuant to the authority vested in the President of the United States by Section 311(c) of the Federal Water Pollution Control Act, 33 U.S.C. § 1321(c), as amended ("CWA"). This authority has been delegated to the Administrator of the EPA by Executive Order No. 12777, 58 Federal Register 54757 (October 22, 1991), and further delegated to EPA On Scene Coordinators by EPA Delegation No. (2-89).

2. This Order provides for performance of removal actions and reimbursement of removal costs incurred by the United States in connection with a facility located at 4500 Leeds Avenue, Charleston, Charleston Co.,

S. Carolina. This Order requires the Respondent to immediately prevent a substantial threat of a discharge of oil from a drainage ditch located behind the facility which collects storm water run-off from the facility including run-off from a waste oil staging area. The drainage ditch discharges into the Ashley River. The primary sump (chip pad catch basin #2) at the waste oil staging area is engineered to discharge into a waste water treatment system where oil and other suspended contaminants are precipitated out of the storm water run-off and removed as sludge. The line leading from the sump to the waste water treatment system is clogged. There are no maintenance records indicating how long this situation has persisted.

The primary sump at the waste oil staging area can alternatively discharge into a secondary sump (chip pad catch basin #3) which drains into the central storm water collection line for the rear of the facility. This line then flows to a concrete manhole which has two discharge lines. The lines are separated by a concrete weir. The first surge of storm water is contained behind the weir and is funneled into the line discharging into a retention pond. The assumption being that the first surge of storm water would contain the greatest amount of contaminants from roads and parking areas at the facility. Once the water level reaches the top of the weir it then drains into the second discharge line and then into a drainage ditch on county right-of-way behind the facility. The drain line discharging to the storm water retention pond is clogged with silt. The bottom of

the manhole is silted in allowing only 2 inches (approximately) of depth before the storm water reaches the top of the weir. There are no inspection records on the condition of the manhole.

The storm water retention pond shows no indication of any oil or debris accumulation. The drainage ditch has oily water near the corrugated pipe discharging from the manhole as well as stained soil running from the corrugated pipe entrance to the Ashley River. There is no indication of oil above the corrugated pipe discharge point in the drainage ditch.

The U.S. Coast Guard Marine Safety Laboratory (case number: 01-048) was able to match samples from a sheen in the Ashley River on August 25, 2000 with samples taken at the facility and in the drainage ditch on October 18 and November 17, 2000.

## **II. PARTIES BOUND**

1. This Order applies to and is binding upon Respondent and Respondent's directors, officers, employees, agents, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondent's responsibilities under this Order.

### **III. DEFINITIONS**

1. Unless otherwise expressly provided herein, terms used in this Order which are defined in Section 311 of the Clean Water Act (CWA), or in the Oil Pollution Act (OPA) shall have the meaning assigned to them in CWA or OPA. Whenever terms listed below are used in this Order, the following definitions shall apply:
2. "Oil" shall have the meaning set forth in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1), for the purposes of the work to be performed under this Order, and Section 1001(23) of OPA, 33 U.S.C. § 2701(23), for purposes of reimbursement of costs.
3. "Navigable waters" shall have the meaning set forth in Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and Section 1001(21) of OPA, 33 U.S.C. § 2701(21) and 40 CFR Part 110.
4. "Facility" shall have the meaning set forth in Section 311(a)(10) and (a)(11) of the CWA, 33 U.S.C. § 1321(a)(10) and (a)(11), and by Section 1001(22) and (24) of OPA, 33 U.S.C. § 2701(22) and (24).

5. "Discharge" shall have the meaning set forth in Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2) and 40 CFR Part 110.1 for purposes of the work to be performed under this Order, and shall have the meaning set forth in Section 1001(7) of OPA, 33 U.S.C. § 2701(7), for purposes of reimbursement of cost.
6. "Order" shall mean this Order and all appendices attached hereto. In the event of conflict between this Order and any appendix, this Order shall control.
7. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.
8. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300, including, but not limited to, any amendments thereto.

#### **IV. RESERVATION OF RIGHTS AND PENALTIES**

1. This Order shall not preclude EPA from taking any action authorized by the CWA, the OPA, the National Contingency Plan, or any other applicable law. EPA reserves the right to direct all activities including off-facility shipping, disposal and all other matters. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order or from taking any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent in the future to perform additional activities pursuant to the CWA, the OPA, or other applicable law.
2. Respondent shall notify EPA of any response actions that are not described in this Order.
3. Violation of any term of this Order or oral direction from EPA may subject Respondent to a civil penalty of up to \$27,500 per day of violation or an amount up to three times the cost incurred by the Oil

Spill Liability Trust Fund as a result of such failure under Section 311(b)(7)(B) of the CWA, 33 U.S.C. §1321(b)(7)(B), as adjusted by 61 FR 69360 (Dec. 31, 1996) (to be codified at 40 CFR 19.4).

## **V. FINDINGS OF FACT AND VIOLATIONS**

1. On or about August 25, 2000, a discharge of oil reached the Ashley River, which is a navigable water of the United States.
2. Cummins Engine Company, Inc. is the owner of the facility from which the discharge took place based on the findings of the U.S. Coast Guard Marine Safety Laboratory (case number 01-048) and a facility inspection conducted on December 20, 2000, by EPA and U.S. Coast Guard representatives.

## **VI. WORK TO BE PERFORMED**

1. The Respondent is hereby ordered to follow the terms set forth in this Order and perform the work described herein.
2. The Respondent shall perform the work necessary to complete the tasks described below within the dates specified and in



accordance with the National Contingency Plan, 40 CFR Part 300.

3. The Respondent shall notify EPA ( point of contact for EPA:Roberta Runge, @ (404) 562-8755) of a contact person responsible for the tasks described below within *within 5 days of issuance of this Order.*

*7 days of receipt  
of letter*

**VII. IMMEDIATE STABILIZATION, MITIGATION  
AND REMOVAL ACTIONS**

1. (a) The Respondent shall *immediately* place, and maintain for the duration of the clean-up, absorbent booms in the drainage ditch leading to the Ashley River. 7

*NOT  
MAINTAINED*

- 
- (b) The Respondent shall determine the nature and extent of the line blockage leading to the waste water treatment system from the primary sump at the waste oil storage area and correct the problem *within 7 days of receipt of this Order.* 7

*DONE*

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- 
- (c) The Respondent shall, *within 7 days of receipt of this Order*, remove and properly dispose of, all accumulated silt/sediment/debris in the bottom of the manhole which is intended to direct storm water into the retention pond or to the drainage ditch.

*DONE*

(d) The Respondent shall excavate and properly dispose of contaminated soils in the drainage ditch from the point at which storm water is discharged from the facility to the point where the ditch discharges storm water into the Ashley River. The Respondent shall provide soil conformation samples upon completion of soil excavation indicating no greater than 100 ppm total petroleum hydrocarbon (TPH) remains in the impacted area. The Respondent shall vegetatively stabilize the excavated areas in the ditch. The Respondent shall submit a Work Plan and Sampling Plan within 14 days of receipt of this Order.

2. EPA will review, comment, modify and approve the work plan. The

Respondent shall submit the work plan to:

Roberta M. Runge, On-Scene Coordinator

U.S. Environmental Protection Agency,

Emergency Response and Removal Branch

61 Forsyth Street, Atlanta, Ga. 30303

### **VIII. REPORTING REQUIREMENTS**

1. The Respondent shall submit a written progress report to EPA concerning actions undertaken pursuant to this Order every 14<sup>th</sup> day after the date of

*PROPOSED  
RECEIVED  
TIME LINE  
NEEDED*

*PLAN  
APPROVED  
MAY 22, 01*

*7/15/01 1000  
ask for phone #*

receipt of EPA's approval of the Work Plan until termination of this Order, unless otherwise directed in writing by EPA personnel. These reports shall describe all significant developments during the preceding period, including work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems. The OSC may request weekly (or more frequent) reports when the activities at the site warrant a higher reporting frequency.

#### **IX. EFFECTIVE DATE**

The effective date of this Order shall be the date of the receipt of this Order by the Respondent.

\_\_\_\_\_  
Roberta M. Runge  
On-Scene Coordinator

\_\_\_\_\_  
Date

Received by: \_\_\_\_\_

Representing Respondent

\_\_\_\_\_  
Date